



U.S. Department of Housing and Urban Development  
Public and Indian Housing

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Special Attention of:

**Notice: PIH 98-38 (ONAP)**

ONAP Administrators; Indian  
Housing Authorities; Indian  
Tribes; Tribally Designated  
Housing Entities; Public  
Housing Directors;  
State/Area Coordinators;  
Public Housing Agencies

Issued: July 9, 1998  
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Cross Reference: PIH 97-50

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**SUBJECT:** Procedures to Avoid Displacement of Section 8  
Program Participants Receiving Rental Assistance  
from Indian Housing Authorities

1. **Purpose:** This Notice clarifies the guidance contained in Notice PIH 97-50 (HA), issued September 19, 1997, and provides procedures to prevent displacement of families receiving Section 8 tenant-based rental assistance under the Section 8 moderate rehabilitation, certificate and voucher programs from Indian housing authorities (IHA).

This Notice only applies to funding increments under consolidated Section 8 Annual Contributions Contracts (ACC) that were entered into by an IHA and HUD prior to October 1, 1997.

2. **Background:** The Native American Housing Assistance and Self-Determination Act (NAHASDA) (Pub. L. 104-330, approved Oct. 26, 1996) became effective on October 1, 1997. It repealed in its entirety all provisions relating to Indian housing assistance under the United States Housing Act of 1937 (the 1937 Act) and certain other laws. The various categorical programs that were repealed in Title V of NAHASDA were consolidated into a single Indian Housing Block Grant, which will be made available to eligible Indian tribes or their tribally designated housing entities (TDHE).

NAHASDA terminated HUD's authority to provide new assistance for IHAs under Section 8 of the 1937 Act, effective October 1, 1997. Therefore, the Department is prohibited from renewing any expiring funding

increments under a Section 8 ACC with any IHA, or its successor entity, after September 30, 1997. Until the expiration of the ACC term, HUD will continue to provide funds under any Section 8 rental certificate, rental voucher, and moderate rehabilitation program ACC executed with an IHA on or before September 30, 1997.

NAHASDA assistance, with certain limited exceptions, is required to be directed to Indian families living on Indian reservations and in other Indian areas. Under Section 8 of the 1937 Act, IHAs that administered Section 8 programs were required to serve eligible families that applied for assistance, regardless of tribal affiliation.

Indian tribes and TDHEs in implementing NAHASDA have discretion to operate or not to operate a program that is substantially similar to the Section 8 programs. Although the Department strongly encourages them to continue to operate such programs, there is no statutory provision that mandates this.

If a tribe or TDHE chooses not to operate such a program, it cannot count the former Section 8 units as "formula current assisted stock (FCAS)" for NAHASDA formula calculation purposes, resulting in no NAHASDA funds being made available to the grant recipient for FCAS purposes.

This Notice provides procedures to allow families who have been recipients of IHA Section 8 rental certificate, rental voucher and moderate rehabilitation program assistance under ACCs entered into before September 30, 1997, to continue receiving assistance after expiration of the IHA ACC through renewal of ACCs with local public housing agencies (PHA), subject to the availability of appropriations. Owners in the moderate rehabilitation program may exercise their statutory right to renew for one year by contacting the Office of Native American Programs for further information.

3. **PROCEDURE:** All Area Offices of Native American Programs (Area ONAP) are directed to immediately review all current and recently-expired (as of September 30, 1997 or thereafter) Section 8 ACCs. As part of the transition from the 1937 Act programs to program operations under NAHASDA, the Area ONAP should contact each IHA, tribe or TDHE under its jurisdiction and verify the status of Section 8 participants. The

following information should be updated for all families served under the current and recently-expired IHA Section 8 ACCs and transmitted to the National Office of Native American Programs within 30 days of the issuance of this Notice:

- a. A good faith estimate from the IHA or its successor entity of the number of Section 8 families that it intends to continue to serve with NAHASDA funds.
- b. A list of each family or individual who will not be served by the tribe or TDHE under a substantially similar program. The list should include the family's name, family size and composition, street address, county of residence and landlord's name, address and telephone number, and any other pertinent data that would specifically identify a family that will not continue to receive housing assistance from the tribe or TDHE.
- c. A determination whether each such family that will not be served is located within the area of operation of a PHA; and
- d. A determination as to whether the PHA is willing to execute an ACC, subject to the availability of funds, to serve those Section 8 families not served by the tribe, TDHE, IHA or its successor entity. The IHA or its successor entity must report to the Area ONAP on the results of its efforts to place currently-eligible Section 8 families.

Area ONAPs should prioritize obtaining the above information for families that will be affected by loss of IHA Section 8 rental assistance (i.e., for the earliest expiring funding increments and ACCs).

The IHA shall notify all owners, individuals and families that will no longer be served under NAHASDA, at least 90 days in advance of the termination of each funding increment under the ACC, that the Housing Assistance Payments (HAP) contract will terminate, the Section 8 ACCs will expire and that Section 8 subsidies will end.

Every effort should be made to submit the requested information to Headquarters two months prior to the

funding increment, HAP contract and ACC expiration. This will facilitate renewal fund assignments to PHAs in a timely manner.

4. **INFORMATION TO BE PROVIDED TO PHAs:** PHAs that agree to administer renewal assistance for Section 8 families formerly assisted by an IHA should be informed that they will receive renewal funding for this purpose under an amended ACC. PHAs would treat incoming families the same as portability move-ins that they absorb. Families may choose to stay in their current dwelling units or move.

PHAs must verify income and establish tenant rents as usual. The dwelling unit selected must pass Housing Quality Standards inspection and a new lease and HAP contract must be executed (the old lease and HAP contract expires when the IHA's ACC expires).

5. **FUNDING:** The Department plans to provide an allocation of renewal funds to the local PHAs that agree to administer the renewal assistance for any Section 8 families facing loss of rental assistance by an IHA, tribe, TDHE or successor entity's decision not to serve individual families and/or operate a program that is substantially similar to the Section 8 program. HUD expects to make the renewal ACC with the PHA effective on the first of the month following expiration of the IHA's ACC. This can only be accomplished with your full cooperation by supplying the requested information promptly.

/s/

Deborah Vincent, General Deputy  
Assistant Secretary for Public  
and Indian Housing